become his qualified property, and absolutely his so long as they do not escape. But if he permits them to go he can not follow them." *Bristol* v. *E. L. A. Society,* 52 Hun 161, 5 N. Y. Supp. 131, cited in the principal case. To the same effect are *J. G. Wilson* v. *Rousseau,* 4 How. 646, 673; *Gayler* v. *Wilder,* 10 How. 477; *Morton* v. *N. Y. Eye Infirmary,* 5 Blatch. 116; *Dudley* v. *Mayhew,* 3 Comstock (N. Y.) 9; *Comstock* v. *White,* 18 How. Prac. (N. Y.) 421. It was undoubtedly the purpose of the patent statutes to rectify this condition of the common law and it is quite probable that Stein might have patented his idea had it been new and original with him even though it did not require physical devices for carrying it out. For a discussion of this point see 15 MICH. L. REV. 660.

RAILROADS—INJURY CAUSED BY FIRE TO MUNICIPAL FIREMAN.—A public statute made a railroad liable for damages to person or property from fires set by its locomotives. Plaintiff, a city fireman, was injured in an attempt to extinguish a fire on X's property caused by defendant railroad. *Held,* that the act did not apply to the fireman, but only to those so situated that as to them the operation of the road constituted an extra fire hazard, and the railroad company violated no duty owed the fireman. *Clark* v. *Boston & M. R. R.* (N. H. 1917), 101 Atl. 795.

The statute does not apply in the case of property of a third person in the railroad's charge, but applies only to property in the control of others along its line. *Welch et al.* v. *Concord R. R.,* 68 N. H. 206, 44 Atl. 304; *Bassett* v. *Conn. River R. Co.,* 145 Mass. 129. At common law a fireman injured through defects in the property is not entitled to recover, as he is considered a licensee, and the owner owes him no active duty. *Kelly* v. *Henry Muhs Co.,* 71 N. J. L. 358; *Gibson* v. *Leonard,* 143 Ill. 182, 32 N. E. 182. The proprietor must refrain from wilful or affirmative acts which are injurious. *Lunt* v. *Post Printing & Publishing Co.,* 48 Col. 316, 110 Pac. 203; *Woodruff* v. *Bowen,* 136 Ind. 431, 34 N. E. 1113. Where a fireman called to put out a fire caused by an explosion resulting from defendant's locomotive negligently "kicking" one of its cars, was injured by subsequent explosions, it was held that he could recover, such a situation being within the rule that a licensee has the right to require the proprietor to so conduct himself as not to injure another through his active negligence, for the subsequent explosion was a part of a series of events set in motion by the original act of the company. *Houston Belt, &c. R. Co.* v. *O'Leary* (Tex. Civ. App. 1911), 136 S. W. 601; *Barnett* v. *Atlantic City Electric Co.,* 87 N. J. L. 29, 93 Atl. 108. The plaintiff could not recover in the instant case for his injury. He assumed the risk. His attempt to extinguish the fire, and not the company's negligence, was the proximate cause of his injury. *Seale* v. *Gulf C. & S. F. Ry. Co.,* 65 Tex. 274.

SPECIFIC PERFORMANCE—CONTRACT TO DEVISE—HARDSHIP ON INNOCENT THIRD PARTIES.—On a promise to the plaintiffs' father that they should succeed to the promisor's property, the plaintiffs, when children, went to live with him. He was then childless, but thirty years later had a child by a second wife. To the wife and child, who knew nothing of the agreement,